

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JULIE CAMACHO KAWAGISHI,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC, et al.,

Defendants.

No. 2:22-CV-0919-DMC-P

ORDER

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the Court is Defendants' unopposed motion, ECF No. 10, to strike Plaintiff's first amended complaint.

Plaintiff initiated this action with a complaint filed on February 28, 2022, in the Butte County Superior Court. See ECF No. 1-1. Defendants removed the action to this Court on May 27, 2022. See ECF No. 1. Defendants filed their answer on June 6, 2022. See ECF No. 4. Without leave of Court or stipulation signed by all parties, Plaintiff filed a first amended complaint on August 4, 2022. See ECF No. 9.

The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule

12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). In all other situations, a party's pleadings may only be amended upon leave of court or stipulation of all the parties. See Fed. R. Civ. P. 15(a)(2).

Here, the Court finds that Plaintiff's first amended complaint has been improperly filed. Plaintiff seeks to amend a pleading to which an answer is required and Defendants have filed their answer. Thus, to be considered filed as of right, Plaintiff's first amended complaint was due within 21 days of the date Defendants filed their answer, or by June 27, 2022. Plaintiff's first amended complaint, however, was not filed until August 4, 2022. The Court agrees with Defendants that, because it was not filed within 21 days of the date Defendants filed their answer, and because it was filed without stipulation or leave of Court, the first amended complaint was improperly filed and should be stricken.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendants' motion to strike, ECF No. 10, is granted; and
2. Plaintiff's first amended complaint, ECF No. 9, is stricken as having been improperly filed. This Order is without prejudice to Plaintiff's obtaining a stipulation of all parties to amend the pleading, or demonstrating good cause to amend and obtaining court authorization as required by statute.

Dated: September 20, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE